

Deficiency Progress Report- Update 2

Submitted: 5/13/2010

To complete the evaluation process, Cal/EPA requires the CUPAs to submit Deficiency Progress Reports that explain the CUPA's progress towards correcting the identified deficiencies. Deficiency Progress Reports are due every 90 days after the evaluation date until all deficiencies have been corrected.

CUPA: City of Anaheim Fire Department

Evaluation Date: November 17 and 18, 2009

Evaluators:

Cal/EPA: Ernie Genter

SWRCB: Sean Farrow

OFSM: Jennifer Lorenzo

DTSC: Mark Pear

Date Update 1 submittal Date: February 16, 2010

Deficiencies corrected with Update 1: #3

Status: Deficiencies 1, 2 and 4 remain outstanding

Date Update 2 submittal Date: May 13, 2010

Deficiencies corrected with Update 2: #2

Status: Deficiencies 1 and 4 remain outstanding

Next Update Report (Update 3) due date: August 16, 2010

Deficiency 1: The CUPA is under-reporting enforcement actions on Annual Enforcement Summary Report 4.

Preliminary Corrective Action(s): By February 16, 2010, the CUPA will adjust their electronic data system to track and accurately report all informal enforcement actions.

By September 30, 2010, the CUPA's will include all informal and formal enforcement actions taken during the reporting period on their FY 09/10 Report 4.

CUPA Corrective Action, (Update 1): The CUPA acknowledges the need to correct the report generated by its data base that is the Summary Report referred to as CUPA 4. The request to fix it has been relayed to the CUPA's contractor with a deadline of September 1, 2010.

CalEPA Response: *Please report your progress on the next update.*

CUPA Corrective Action, (Update 2): Same response as in Update 1. This report will be corrected to produce the Summary Reports for the current year.

CalEPA Response: *Cal/EPA looks forward to reviewing Report 4 for FY09/10.*

Deficiency 2: The CUPA has not completed issuing all the CUPA Consolidated Permits to its regulated facilities.

Preliminary Corrective Action(s): Immediately, the CUPA will identify the compliant facilities with expired permits that are eligible to be issued current permits. The CUPA will process these with the highest priority.

By February 16, 2010, the CUPA will report the number of permits issued to date and provide a brief summary of the status of their corrective action

CUPA Corrective Action, (Update 1): The CUPA has the necessary data entry resources in place and priority was given to documentation that affected permit issuance. These were identified and processed from the backlog.

SWRCB Response: *The CUPA is making good progress towards correcting this deficiency. On the next progress report, please submit to the SWRCB and Cal/EPA the number of permits that were identified and issued.*

CUPA Corrective Action, (Update 2): The CUPA determined the affected facilities were 45 out of 129 UST sites, but all permits have now been issued from the previously backlogged data entry. Data entry has remained current.

SWRCB Response: *Thank you for the update. SWRCB considers this deficiency corrected.*

Deficiency 4: The CUPA is not fully implementing its fee accountability program, which is impacting the CUPA's ability to adequately administer the Unified Program (UP) in the City of Anaheim.

Preliminary Corrective Action(s): Immediately, the CUPA Program will be reimbursed for all inappropriate use of CUPA funds. By February 16, 2010, the CUPA will report to Cal/EPA the scope and status of these reimbursements. The CUPA will also include in the report, sufficient fiscal documentation to demonstrate the completion of such reimbursements to the CUPA fund.

By February 16, 2010, the CUPA will report to Cal/EPA the status of their efforts fully manage and control UP staff resources by either ensuring UP staff are allocated solely to perform UP activities or by adjusting the funding source to reflect the allocation of these staff to other non-UP activities.

CUPA Corrective Action, (Update 1): The CUPA has discussed and decided on an approach to remedy this issue. The incorporation of fire investigation into the CUPA Application will be pursued by the process provided by CalEPA.

CalEPA Response: The requirements of Title 27, 15150 and 15300 that apply or need to be addressed to make a change in the CUPA program and to add an additional program follow.

From 15300: A CUPA must notify and receive approval from the Secretary prior to instituting addition or deletion of a program element. The CUPA must submit a proposal for change in the Unified Program to the Secretary. The proposal shall include the following if applicable: 1. Explanation of the proposed changes in sufficient detail to enable a full understanding of the roles and responsibilities of the CUPA, and 2. sufficient information to enable the Secretary to determine that adequate resources exist to carry out all aspects of the Unified Program.

From 15150: Aspects of the application that may need addressed/amended are: 1. Single Fee System and Fee Accountability Program, 2. Staff Time Allocations (part of budget and funding mechanism), 3. A description of any additional programs incorporated into the Unified Program, and 4. an explanation of why the Secretary need not be concerned that certification (approval) might lead to adverse impacts to the jurisdiction.

This could be done as an amendment to the existing CUPA application or simply as a proposed change to the CUPA program, as long as all of the above are addressed as appropriate.

Also, provide documentation to demonstrate the completion of CUPA Program fund reimbursements, adjustment of the funding source to reflect the allocation of staff to other non-UP activities, and establishment of a "special fund" to manage, at a minimum, penalties collected from UP related enforcement actions.

CUPA Corrective Action, (Update 2): The CUPA is still waiting for an approved budget to determine staffing level, included other activities and fees amounts. The budget is scheduled to be on the City Council meeting agenda on June 22, 2010. Also, the vacant Fire Chief position is anticipated to be filled by July 1, 2010. This individual may choose to direct the CUPA another way. Thus, no action was taken to remedy this deficiency since the last update.

CalEPA Response: *Please report your progress on the next update.*